

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

MEMORIAL RESOLUTIONS

S.R. 236 - By Mengden: Memorial resolution for James Richard Mires, Sr.

S.R. 238 - By Jones, Wilson, Travis, Brown, Caperton, Glasgow, Sarpalius, Richards: Memorial resolution for Colonel Walter J. Wells.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 237 - By Andujar: Extending congratulations to Wilbur Vinton ("Brad") Bradshaw, Jr., M.D.

S.R. 240 - By Traeger: Extending congratulations to Dr. Joaquin Gonzalez Cigarroa, Jr.

S.R. 241 - By Doggett: Extending welcome to The Reverend Mark Jorjorian.

S.R. 243 - By Harris: Extending welcome to the Richardson Families in Action.

ADJOURNMENT

On motion of Senator Brooks the Senate at 11:04 o'clock a.m. adjourned today in memory of Colonel Walter J. Wells until 10:30 o'clock a.m. tomorrow.

EIGHTEENTH DAY

(Wednesday, February 11, 1981)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Vale, Williams, Wilson.

A quorum was announced present.

Senator Mike Richards offered the invocation as follows:

Father, we wish to thank You for such a beautiful morning. It's crisp and it's cool, and it reminds us that our lives should be that way, clearly defined, easy to see, very discernible.

Thank You, Father, for the responsibility that each one of us have here. Let us feel it for the fourteen million people that live in this wonderful state.

Bless us this morning in every deliberation that's on our hearts today, we pray in Jesus' name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 20

On motion of Senator Parker and by unanimous consent, Senator Mengden will be shown as Co-author of S.B. 20.

CO-AUTHORS OF SENATE BILL 130

On motion of Senator Mengden and by unanimous consent, Senators Traeger, Short and Glasgow will be shown as Co-authors of S.B. 130.

CO-AUTHOR OF SENATE BILL 325

On motion of Senator Williams and by unanimous consent, Senator Traeger will be shown as Co-author of S.B. 325.

CO-AUTHOR OF SENATE BILL 511

On motion of Senator Meier and by unanimous consent, Senator Leedom will be shown as Co-author of S.B. 511.

SENATE CONCURRENT RESOLUTION 33

Senator Farabee offered the following resolution:

S.C.R. 33, In memory of Rhea Howard.

The resolution was read.

On motion of Senator Leedom and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Farabee and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled bills and resolutions:

S.B. 58 (Signed subject to Sec. 49a,
Article III, Constitution of
State of Texas)

S.B. 209 (Signed subject to Sec. 49a,
Article III, Constitution of
State of Texas)

S.C.R. 13

H.C.R. 36

REPORTS OF STANDING COMMITTEES

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.B. 231 (Amended)
S.B. 266
S.B. 88

Senator Snelson submitted the following report for the Committee on Education:

S.B. 305
S.B. 185

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

S.B. 12
S.B. 261

Senator McKnight submitted the following report for the Subcommittee on Nominations:

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE, REGULAR SESSION:

We, your Subcommittee on Nominations, to which were referred the following appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

PENDING BEFORE SENATE: Dr. S. L. Abbott, El Paso County, TEXAS 1986 SESQUICENTENNIAL COMMISSION.

To be a Member of the STATE BOARD OF INSURANCE: The Honorable Lyndon Olson, Jr., McLennan County.

To be a Member of the INDUSTRIAL ACCIDENT BOARD: Herbert Snow Harris, Jr., Travis County.

To be Members of the TEXAS BOARD OF CORRECTIONS: Clifford F. Smith, Jr., Harris County; Harry M. Whittington, Travis County; H.B. (Bartell) Zachry, Jr., Bexar County.

To be Members of the TEXAS AIR CONTROL BOARD: Vittorio K. Argento, Dallas County; John Lindsey Blair, Hardin County; Dr. D. Jack Kilian, Brazoria County.

To be a Member of the BOARD OF REGENTS - THE UNIVERSITY OF HOUSTON: William A. Kistler, Jr., Harris County.

To be a Member of the PUBLIC SAFETY COMMISSION: W. C. (Bill) Perryman, Henderson County.

To be Members of BOARD OF REGENTS - TEXAS TECH UNIVERSITY: Mrs. Anne W. Phillips, Denton County; Rex P. Fuller, Lubbock County.

S.B. 486 by Harris Economic Development
Relating to continuation of the Texas Amusement Machine Commission and regulation of the amusement machine business; providing a penalty.

- S.B. 487** by Wilson Economic Development
Relating to the regulation of radio-telephone services.
- S.B. 488** by Wilson Natural Resources
To insure the right-to-farm by providing limitations on nuisance actions, rules, regulations and zoning requirements concerning agricultural operations.
- S.B. 489** by Brooks, Andujar, Ogg Human Resources
Relating to payments to hospital districts for the care of crippled children.
- S.B. 490** by Farabee Natural Resources
Relating to the powers, financing, and financial operations of the Red River Authority.
- S.B. 491** by Mengden Jurisprudence
Relating to restitution to victims of crime as a condition of probation or parole.
- S.B. 492** by Mengden Jurisprudence
Relating to the insanity defense and treatment of mentally ill offenders.
- S.B. 493** by Mengden Intergovernmental Relations
Relating to incentive pay for certain peace officers.
- S.B. 494** by Mengden Intergovernmental Relations
Relating to longevity pay for deputy sheriffs.
- S.B. 495** by Mengden Intergovernmental Relations
Relating to longevity pay for full-time deputy constables in certain counties.
- S.B. 496** by Mengden Jurisprudence
Relating to liability for an injury suffered by a person while committing a felony.
- S.B. 497** by Mengden Jurisprudence
Relating to the issuance of search warrants to search for and seize evidence of a crime.
- S.B. 498** by Mengden Jurisprudence
Relating to the right to carry handguns and certain other weapons while traveling.
- S.B. 499** by Mengden Jurisprudence
Relating to the authority of certain retired peace officers to carry certain weapons.
- S.B. 500** by Mengden Intergovernmental Relations
Relating to the responsibility of a county to provide liability coverage for certain full-time law enforcement personnel.
- S.B. 501** by Mengden Jurisprudence
Relating to waiver of trial by a jury in a misdemeanor case.
- S.B. 502** by Mengden Intergovernmental Relations
Relating to the probationary period for police officers in certain cities.

S.B. 503 by Mengden Intergovernmental Relations
Relating to the competency and method of removal of certain elected municipal and county peace officers.

S.B. 504 by Mengden Jurisprudence
Relating to depositions in criminal cases.

S.B. 505 by Mengden Jurisprudence
Relating to enhanced penalties for offenses against children and the elderly.

S.B. 506 by Mengden Intergovernmental Relations
Relating to the requirement of voter approval for the establishment of a police civilian review board.

S.B. 507 by Mengden Jurisprudence
Relating to the payment of rewards to persons who provide information leading to arrest and conviction of certain felony drug offenders.

S.B. 508 by Mengden Natural Resources
Relating to rewards to persons providing information about game law violations.

S.B. 509 by Mengden State Affairs
Relating to regulation of the practice of electrolytic hair removal; providing a penalty.

S.B. 510 by Brown Jurisprudence
Relating to service of citation on nonresidents for property tax purposes.

S.B. 511 by Meier, Leedom Economic Development
Relating to product liability suits.

S.B. 512 by Williams Intergovernmental Relations
Relating to residency requirements for the employees of a city or town.

S.B. 513 by Brooks, Leedom State Affairs
Relating to application for a certificate of public convenience and necessity to operate as a motor carrier.

S.B. 514 by Brooks State Affairs
Relating to creation of a state commission to maintain and operate the Battleship "Texas"; providing a penalty.

S.B. 515 by Santiesteban Jurisprudence
Relating to a warning to an alien criminal defendant of the effect of conviction on resident status.

S.B. 516 by Ogg Human Resources
Relating to the funding, establishment and operation of multipurpose service centers for displaced homemakers.

S.B. 517 by Mauzy Intergovernmental Relations
Relating to creation of the County Criminal Court No. 11 of Dallas County.

S.B. 518 by Mauzy Intergovernmental Relations
Relating to the creation of the County Court of Dallas County at Law No. 6.

- S.B. 519** by Mauzy Jurisprudence
Relating to actions by injured parties against insurers.
- S.B. 520** by Mauzy Jurisprudence
Relating to the requirement for members of the State Bar to pay fees.
- S.B. 521** by Mauzy Education
Relating to students eligible for admission to public schools.
- S.B. 522** by Mauzy State Affairs
Relating to required disclosure of financial interests, activities, and gifts by elective county officers and candidates for elective county office; providing standards of conduct; providing a penalty.
- S.B. 523** by Traeger Economic Development
Relating to the distribution of motion pictures.
- S.B. 524** by Harris State Affairs
Relating to the regulation, licensing, and taxing of horse racing and pari-mutuel wagering; providing penalties.
- S.B. 525** by Harris Intergovernmental Relations
Relating to the expenditure of proceeds of airport revenue bonds by joint boards created by two cities pursuant to Article 46d-14, Vernon's Texas Civil Statutes, for furniture, fixtures and equipment at airports operated by such joint board without the necessity of competitive bidding where such revenue bonds are secured solely by the lease payments of private entities.
- S.B. 526** by Jones Human Resources
Relating to regulation of opticians.
- S.B. 527** by Parker Finance
Relating to a limitation on increases in certain taxes on the residence homestead of an elderly person or that person's surviving spouse.
- S.B. 528** by Parker State Affairs
Relating to time off from work to attend political conventions.
- S.J.R. 24** by Mengden State Affairs
Proposing a constitutional amendment to authorize the legislature to prescribe eligibility requirements for the offices of sheriff and constable.
- S.J.R. 25** by Parker Finance
Proposing a constitutional amendment to restrict increases in ad valorem taxes, other than school taxes, on the residence homestead of a person 65 or older while it remains the residence homestead of that person or that person's surviving spouse.
- S.C.R. 34** by Traeger Administration
Granting Asa G. Fuller III permission to sue State.

MESSAGE FROM THE HOUSE

House Chamber
February 11, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 37, Declaring month of February, 1981, as American Heart Association "Have a Heart" Month.

H.C.R. 47, Requesting U. S. Postal Service to issue a stamp commemorating Texas Sesquicentennial.

H.C.R. 46, Requesting Texas Congressional delegation to seek issuance of a stamp commemorating the Texas Sesquicentennial.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 143**.

House Conferees: Jackson, Chairman; Ragsdale, Semos, Bryant, Agnich.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator McKnight gave notice that he would tomorrow submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

COMMUNICATION FROM LEGISLATIVE AUDIT COMMITTEE

The following Communication from the Legislative Audit Committee was read and was referred to the Subcommittee on Nominations:

Austin, Texas
February 9, 1981

To the Senate of the Sixty-seventh Legislature, Regular Session:

We ask the advice, consent and confirmation of the Senate with respect to the appointment by this Committee of **GEORGE W. McNIEL** of Austin, Travis County, to be State Auditor of Texas for the term expiring February 15, 1983.

Such appointment on this date is hereby certified under the provisions of Senate Bill No. 27 as passed by the Forty-eighth Legislature.

Respectfully submitted,

LEGISLATIVE AUDIT COMMITTEE

Attest:

/s/W. P. Hobby
Lieutenant Governor

/s/Bill Clayton
Speaker of the House
of Representatives

/s/Grant Jones
Chairman of the Senate
Committee on Finance

/s/Bill Presnal
Chairman of the House
Committee on
Appropriations

/s/Ray Farabee
Chairman of the Senate
Committee on State Affairs

/s/Bob Davis
Chairman of the House
Committee on Ways and Means

SENATE RULE 103 SUSPENDED

On motion of Senator Sarpalius and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider S.B. 306 today.

GUEST PRESENTED

Senator Caperton was recognized and presented Dr. John Peet of Conroe, "Capitol Physician" for the day, as his guest today.

SENATE BILL 25 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 25, Relating to the treatment of sex offenders.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Amend Senate Bill 25 by striking lines 10-11, page 1, and substituting in lieu thereof the following:

"exposure, rape of a child, sexual abuse of a child, indecency with a child, or incest."

The committee amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 25 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 25 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 18 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 18, Relating to hunting in Sea Rim State Park.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 18 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 18** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

HOUSE CONCURRENT RESOLUTION 46

The President laid before the Senate the following resolution:

H.C.R. 46, Requesting Texas Congressional delegation to seek issuance of a stamp commemorating the Texas Sesquicentennial.

The resolution was read.

On motion of Senator Andujar and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE CONCURRENT RESOLUTION 47

The President laid before the Senate the following resolution:

H.C.R. 47, Requesting U. S. Postal Service to issue a stamp commemorating Texas Sesquicentennial.

The resolution was read.

On motion of Senator Andujar and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE BILL 172 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 172, Relating to the regulation of conflicts of interest concerning administration of the medical assistance program.

The bill was read second time and was passed to engrossment.

SENATE BILL 172 ON THIRD READING

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 172** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

SENATE BILL 308 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 308, Relating to the regulation of invention development services.

The bill was read second time.

Senator Traeger offered the following committee amendment to the bill:

Amend **S.B. 308** by inserting "the option" on page 7, line 27, after the word "at".

The committee amendment was read and was adopted.

Senator Traeger offered the following committee amendment to the bill:

Amend Section 9 of **S.B. 308** by adding a new Subsection (c) and reletter the current subsection (c) as subsection (d).

(c) Alternatively, any violation of this Act by an invention developer, or omission of material fact by an invention developer, or failure of an invention developer to make all disclosures required by this Act constitutes a deceptive trade practice under Chapter 17 of the Business and Commerce Code. Remedies available under subsection (b) are mutually exclusive to those provided under this subsection (c) in conformance with section 17.43 of the Business and Commerce Code.

The committee amendment was read and was adopted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 308 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 308** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

LEAVE OF ABSENCE

Senator Farabee was granted leave of absence for the remainder of today on account of important business on motion of Senator Jones.

SENATE BILL 127 ON SECOND READING

Senator Meier moved that Senate Rules 12 and 89 be suspended and that **S.B. 127** be taken up for consideration at this time:

S.B. 127, Relating to the criminal justice division in the governor's office, the criminal justice division advisory board, and the criminal justice planning fund. (Submitted by the Governor as an emergency)

The motion prevailed by the following vote: Yeas 28, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Vale, Williams, Wilson.

Nays: Ogg.

Absent-excused: Farabee.

The bill was read second time.

Senator Meier offered the following committee amendment to the bill:

Amend Senate Bill No. 127, SECTION 1, page 3, line 10, to delete the word "not" in the phrase "appointment is not subject to Senate confirmation."

The committee amendment was read.

On motion of Senator Meier and by unanimous consent, the committee amendment was tabled.

Senator Meier offered the following committee amendment to the bill:

Amend Senate Bill No. 127, SECTION 1, page 3 by deleting all of sec. 7(a), lines 12-20, and replacing it with the following language.

Sec. 7(a) The Criminal Justice Advisory Board shall consist of 21 persons, selected in the following manner: 7 members shall be appointed by the Governor, 7 members shall be appointed by the Lieutenant Governor, and 7 members shall be appointed by the Speaker of the House of Representatives.

Any vacancy on the board shall be filled by the same person who appointed the member whose departure creates the vacancy. The Governor shall appoint the chairman of board, and the chairman's appointment shall be subject to Senate confirmation. The members of the board shall elect a vice-chairman of the board from among their number. The board shall review and make recommendations to the Governor on the projects and programs recommended for funding by the staff of the division; the goals, priorities, and standards recommended by staff; the comprehensive criminal justice plan; and on such other matters related to criminal justice as the Governor may request. The Board shall recommend distribution of the funds to local units of government in an amount equal at least to the same percentage as local expenditures for criminal justice activities are to total state and local expenditures for criminal justice activities for the preceding state fiscal year.

The committee amendment was read.

On motion of Senator Meier and by unanimous consent, the committee amendment was tabled.

Senator Meier offered the following amendment to the bill:

Amend **S.B. 127** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 417, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 4413(32a), Vernon's Texas Civil Statutes), is amended by adding Sections 6 and 7 to read as follows:

Sec. 6. (a) The Governor shall establish a Criminal Justice Division within his office to perform the following duties:

(1) to advise and assist the Governor in developing policies, plans, programs, and proposed legislation for improving the coordination, administration, and effectiveness of the criminal justice system;

(2) to administer the Criminal Justice Planning Fund;

(3) to prepare a state comprehensive criminal justice plan, to annually update the plan, based on an analysis of the state's criminal justice problems and needs, and to encourage identical or substantially similar local and regional comprehensive criminal justice planning efforts;

(4) to establish goals, priorities, and standards for programs and projects to improve the administration of justice and the efficiency of law enforcement, the judicial system, prosecution, criminal defense, and adult and juvenile corrections and rehabilitation;

(5) to award grants from the Criminal Justice Planning Fund for programs and projects which address the goals, priorities, and standards established in the state comprehensive criminal justice plan and local and regional comprehensive criminal justice plans;

(6) to apply for, obtain, and allocate for the purposes of this section any federal or other funds which may from time to time be made available for programs and projects which address the goals, priorities, and standards established in or which assist the local and regional comprehensive criminal justice planning efforts;

(7) to administer the funds provided by this Act in such a manner as to ensure that grantees receiving funds under this section do not supplant state or local funds;

(8) to establish procedures and policies that require that the costs of programs and projects funded to local general purpose units of government be assumed over a period of five years out of local revenues;

(9) to monitor and evaluate programs and projects funded under this section; to cooperate with and render technical assistance to state agencies, local governments, or other public or private agencies seeking to reduce crime or enhance the performance and operation of the criminal justice system, and to collect from any state or local government entity information, data, statistics, or other material necessary to carry out the purposes of this section;

(10) to submit a biennial report to the Legislature reporting the Division's activities during the preceding biennium including the comprehensive state criminal justice plans and such other studies, evaluations, crime data analyses, reports, or proposed legislation as the Governor may deem appropriate or as the Legislature may from time to time request; and

(11) to perform such other duties as may be necessary to carry out the duties enumerated above, and adopt such rules, regulations, and procedures as may be necessary.

(b) The Governor shall appoint a Director for the Division. The appointment is subject to Senate confirmation. The Director serves at the pleasure of the Governor.

Sec. 7. (a) The Criminal Justice Division Advisory Board shall consist of twenty-one members. The Governor, Lieutenant Governor and Speaker of the House of Representatives shall each appoint one-third of the members of the board. The board shall review and make recommendations to the Governor on the projects and programs recommended for funding by staff of the Division, the goals, priorities, and standards recommended by staff, the comprehensive criminal justice plan, and on such other matters related to criminal justice as the Governor may request. The Governor shall designate a chairman and vice-chairman of the board from among the members.

(b) The members of the Advisory Board shall be subject to confirmation by the Senate, except elected officers. In this Act, "elected officer" has the meaning given in Section 2, Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes). The chairman and members shall be selected from professional law enforcement, judicial, prosecution, adult and juvenile corrections, and rehabilitation agency personnel, other criminal justice personnel, state and local officials, and private citizens. The members shall serve for two-year terms. Service on the board by state and local officials and employees shall be considered as an additional duty of their office or employment and shall not be construed as dual office holding.

(c) Board members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. In the event of a vacancy on the board the appointing authority shall appoint, subject to Senate confirmation, a new member to fill the remaining portion of the unexpired term.

(d) The Director of the Criminal Justice Division shall sit as an ex-officio, non-voting member of the board.

Sec. 8. The Criminal Justice Division and any project funded by the Criminal Justice Division shall be subject to examination, inspection and audit by the State Auditor's Office, the Legislative Budget Board and the Office of the Governor's Budget and Planning to determine compliance with this Act and the approved annual comprehensive criminal justice plans.

SECTION 2. Section 1, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 1. The purpose of this Act is to continue in existence the special fund known as the Criminal Justice Planning Fund, to provide for the continued use of this fund for assistance to state and local law enforcement, judicial, prosecutorial, criminal defense, and adult and juvenile correctional and

rehabilitative agencies; to provide for the continued administration of this fund; to provide for costs of court as the source of this fund, and to provide that the costs be borne in part by those who necessitate the establishment and maintenance of the criminal justice system. ~~[The purpose of this Act is to create and establish a special fund to be known as the Criminal Justice Planning Fund to provide the State and local funds required by Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide for costs of court as the source of these funds, and to provide that the costs to be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.]~~

SECTION 3. Section 3(a), Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

(a) The sum of ~~\$5.00~~ ~~[\$2.50]~~ shall be taxed as costs of court, in addition to other taxable court costs upon conviction in each misdemeanor case in which original jurisdiction lies in courts whose jurisdiction is limited to a maximum fine of \$200.00 only.

SECTION 4. Section 4, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 4. The sum of ~~\$10.00~~ ~~[\$5.00]~~ shall be taxed as costs of court in addition to other taxable court costs, upon conviction in each misdemeanor case and the sum of ~~\$20.00~~ ~~[\$10.00]~~ shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each felony case in all cases in which original jurisdiction lies in courts whose jurisdiction is limited to fines and/or confinement in a jail or the department of corrections.

SECTION 5. Section 9, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 9. ~~The legislature shall determine and appropriate the necessary amount from the Criminal Justice Planning Fund to the Criminal Justice Division of the Governor's Office for expenditure for state and local criminal justice projects and for costs of administering the funds for such projects. The distribution of the funds to local units of government shall be in an amount equal at least to the same percentage as local expenditures for criminal justice activities are to total state and local expenditures for criminal justice activities for the preceding state fiscal year. Funds shall be allocated among combinations of local units of government taking into consideration the population of the combination of local units of government as compared to the population of the state and the crime rate of the combination of local units of government as compared to the crime rate of the state. The funds so deposited in the Criminal Justice Planning Fund are hereby appropriated to the expenditure of State and local matching funds required by Public Law 90-351 Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Omnibus Crime Control Act of 1970 and determined by the appropriations of Congress to carry out the provisions of said Act. The expenditure of Criminal Justice Planning Funds shall be simultaneous with the expenditure of federal funds.~~

SECTION 6. Section 10, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 10. ~~The legislature may appropriate the unexpended balance of the Criminal Justice Planning Funds for the preceding biennium for the improvement and upgrading of the criminal justice system as defined in the aforementioned federal Act.~~

SECTION 7. This Act takes effect September 1, 1981.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read

on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Brooks offered the following substitute for the pending amendment to the bill:

Substitute for Amendment No. 1

Amend S.B. 127 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 417, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 4413(32a), Vernon's Texas Civil Statutes), is amended by adding Section 5 and 6 to read as follows:

Sec. 5. (a) The Governor shall establish a Criminal Justice Division within his office to perform the following duties:

(1) to advise and assist the Governor in developing policies, plans, programs, and proposed legislation for improving the coordination, administration, and effectiveness of the criminal justice system;

(2) to administer the Criminal Justice Planning Fund;

(3) to prepare a state comprehensive criminal justice plan, to annually update the plan, based on an analysis of the state's criminal justice problems and needs, and to encourage identical or substantially similar local and regional comprehensive criminal justice planning efforts;

(4) to establish goals, priorities, and standards for programs and projects to improve the administration of justice and the efficiency of law enforcement, the judicial system, prosecution, criminal defense, and adult and juvenile corrections and rehabilitation;

(5) to award grants from the Criminal Justice Planning Fund for programs and projects which address the goals, priorities, and standards established in the state comprehensive criminal justice plan and local and regional comprehensive criminal justice plans;

(6) to apply for, obtain, and allocate for the purposes of this section any federal or other funds which may from time to time be made available for programs and projects which address the goals, priorities, and standards established in or which assist the local and regional comprehensive criminal justice planning efforts;

(7) to administer the funds provided by this Act in such a manner as to ensure that grantees receiving funds under this section do not supplant state or local funds;

(8) to establish procedures and policies that require that the costs of programs and projects funded to local general purpose units of government be assumed over a period of five years out of local revenues;

(9) to monitor and evaluate programs and projects funded under this section; to cooperate with and render technical assistance to state agencies, local governments, or other public or private agencies seeking to reduce crime or enhance the performance and operation of the criminal justice system, and to collect from any state or local government entity information, data, statistics, or other material necessary to carry out the purposes of this section;

(10) to submit a biennial report to the Legislature reporting the Division's activities during the preceding biennium including the comprehensive state criminal justice plans and such other studies, evaluations, crime data analyses, reports, or proposed legislation as the Governor may deem appropriate or as the Legislature may from time to time request; and

(11) to perform such other duties as may be necessary to carry out the duties enumerated above, and adopt such rules, regulations, and procedures as may be necessary.

(b) The Governor shall appoint a Director for the Division for a term of two years. The appointment is subject to Senate confirmation. The Director may be removed by the Governor pursuant to the provisions contained in Article XV, Section 9 of the Texas Constitution.

(c) When any grant application is submitted to the Criminal Justice Division, it shall also be submitted to the appropriate local governing body for comment.

Sec. 6. (a) The Criminal Justice Advisory Board shall consist of 21 persons, selected in the following manner: 7 members shall be appointed by the Governor, 7 members shall be appointed by the Lieutenant Governor, and 7 members shall be appointed by the Speaker of the House of Representatives. Any vacancy on the board shall be filled by the same person who appointed the member whose departure creates the vacancy. The Governor shall name the chairman of the board at the time he makes his appointments. The members of the board shall elect a vice-chairman of the board from among their members. The board shall review and make recommendations to the Governor on the projects and programs recommended for funding by the staff of the division; the goals, priorities and standards recommended by staff; the comprehensive criminal justice plan; and on such other matters related to criminal justice as the Governor may request.

(b) All members of the advisory board, including the chairman, shall be subject to confirmation by the Senate, except a state elected officer. In this Act, a state "elected officer" has the meaning given in Section 2, Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes). The chairman and members shall be selected from professional law enforcement, judicial, prosecution, adult and juvenile corrections, post-secondary law enforcement education, and rehabilitation agency personnel, state and local officials, and private citizens. The members shall serve for two-year terms. Service on the board by state and local officials and employees shall be considered as an additional duty of their office or employment.

(c) Board members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in performing their duties.

(d) The Director of the Criminal Justice Division shall sit as an ex-officio, non-voting member of the Board.

(e) The Governor, the Attorney General and the Comptroller of Public Accounts shall sit as the executive funding committee of the Criminal Justice Division. No grant of funds shall be made to any applicant agency or individual nor shall funds be released for any project of the Criminal Justice Division without the approval of a majority of the executive funding committee. The executive funding committee shall not approve the release of funds for the acquisition of electronic surveillance equipment unless and until use of such equipment is authorized by the Legislature. No funds shall be used in any manner to influence, either directly or indirectly, any matter before the Legislature, provided that upon official request, employees of the Division may respond to legislative inquiries.

SECTION 2. Section 1, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 1. The purpose of this Act is to continue in existence the special fund known as the Criminal Justice Planning Fund, to provide for the continued use

of this fund for assistance to state and local law enforcement, judicial, prosecutorial, criminal defense, and adult and juvenile correctional and rehabilitative agencies; to provide for the continued administration of this fund; to provide for costs of court as the source of this fund, and to provide that the costs be borne in part by those who necessitate the establishment and maintenance of the criminal justice system. [The purpose of this Act is to create and establish a special fund to be known as the Criminal Justice Planning Fund to provide the State and local funds required by Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide for costs of court as the source of these funds, and to provide that the costs be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.]

SECTION 3. Section 3(a), Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

(a) The sum of \$5.00 ~~[\$2.50]~~ shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each misdemeanor case in which original jurisdiction lies in courts whose jurisdiction is limited to a maximum fine of \$200.00 only.

SECTION 4. Section 4, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 4. The sum of \$10.00 ~~[\$5.00]~~ shall be taxed as costs of court in addition to other taxable court costs, upon conviction in each misdemeanor case, including cases in which probation is granted, and the sum of \$20.00 ~~[\$10.00]~~ shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each felony case, including cases in which probation is granted, in all cases in which original jurisdiction lies in courts whose jurisdiction is limited to fines and/or confinement in a jail or the department of corrections.

SECTION 5. Section 7, Article 1083, Code of Criminal Procedure, 1965, as amended, is amended to read as follows:

Sec. 7. The custodians of the municipal and county treasuries with whom funds collected under this Act are deposited shall keep records of the amount of funds collected under this Act which are on deposit with them, and shall on or before the last day of the month following each calendar quarter period of three months [the first day of January, April, July and October of each year] remit to the Comptroller of Public Accounts funds collected under this Act during the preceding quarter. The municipal and county treasuries are hereby authorized to retain five percent (5%) of funds collected under this Act as a service fee for said collection.

SECTION 6. Section 9, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 9. The funds as deposited in the Criminal Justice Planning Fund may be appropriated by the Legislature for expenditures for State and local criminal justice projects, including the improvement and upgrading of the Criminal Justice System, and for necessary administrative costs. Funds shall be allocated among combinations of local units of government taking into consideration the population of the combination of local units of government as compared to the population of the state and the crime rate of the combination of local units of government as compared to the crime rate of the state. All funds collected shall be subject to audit by the Comptroller of Public Accounts and all funds expended shall be subject to audit by the State Auditor. [The funds so deposited in the Criminal Justice Planning Fund are hereby appropriated to the expenditure of State and local matching funds required by Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by the

~~Omnibus Crime Control Act of 1970 and determined by the appropriations of Congress to carry out the provisions of said Act. The expenditure of Criminal Justice Planning Funds shall be simultaneous with the expenditure of federal funds.]~~

SECTION 7. Section 10, Article 1083, Code of Criminal Procedure, 1925, is amended to read as follows:

Sec. 10. The Legislature may appropriate the unobligated ~~[unexpended]~~ balance of the Criminal Justice Planning Fund ~~[Funds]~~ for the preceding biennium for the improvement and upgrading of the criminal justice system ~~[as defined in the aforementioned federal Act].~~

SECTION 8. Section 11, Article 1083, Code of Criminal Procedure, 1965, as amended, is amended to read as follows:

Sec. 11. (a) All officers collecting funds due as costs under this Act shall file the reports required under Articles 1001 and 1002, Code of Criminal Procedure, 1965.

(b) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected.

SECTION 9. Subsections (e) and (f), Section 9B, Article 4413(29aa), Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

(e)(1) All officers collecting court costs under this section shall file the reports required by Articles 1001 and 1002, Code of Criminal Procedure, 1965 [1925].

(2) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected.

(f) The custodians of the municipal and county treasuries shall keep records of the amount of funds on deposit collected under this Section, and shall on or before the last day of the month following each calendar quarter period of three months [the tenth day of December, March, June and September of each year] remit to the Comptroller of Public Accounts the funds collected under this section the preceding quarter. Each city and county collecting funds under this section is hereby authorized to retain five percent (5%) of the funds collected by them as a service fee for said collection. All funds collected shall be subject to audit by the Comptroller of Public Accounts and all funds expended shall be subject to audit by the State Auditor.

SECTION 10. Section 14, Article 8309-1, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Sec. 14. (a) The Compensation to Victims of Crime Fund is created in the State Treasury to be used by the board for the payment of compensation to claimants under this Act and other expenses in administering this Act. The board shall make no payments which exceed the amount of money in the fund. No general revenues may be used for payments under this Act.

(b) A person shall pay \$15.00 as a court cost, in addition to other court costs, on conviction of any felony, including cases in which probation is granted, and shall pay \$10.00 as a court cost, in addition to other court costs, on conviction of a misdemeanor, including cases in which probation is granted, punishable by imprisonment or by a fine of more than \$200.00, and shall pay \$1.25 as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by a fine of not more than \$200.00. Convictions arising under the traffic laws of this State are specifically included and those are defined in:

(1) Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), known as the "Driver's License Law"; and

(2) Chapter 421, Acts of the 50th Legislature, 1947, as amended (Article 6701d, Vernon's Texas Civil Statutes), known as the "Uniform Act Regulating Traffic on Highways," except laws regulating pedestrians and the parking of motor vehicles.

(c) Court costs under this section are collected in the same manner as other fines or costs.

(d) The officer collecting the costs in a municipal court case shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the municipal treasury. The officer collecting the costs in a justice, county, or district court case shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the county treasury.

(e) The custodian of a municipal or county treasury shall keep records of the amount of funds on deposit collected under this section and shall remit to the Comptroller of Public Accounts on or before the last ~~10th~~ day of the month following each calendar quarter period of three months ~~each month~~ the funds collected under this section during the preceding quarter ~~month~~. The city and the county may retain five percent of the funds collected under this section as a collection fee.

(f) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected.

(g) (f) The Comptroller of public Accounts shall deposit the funds received by him or her under this section in the Compensation to Victims of Crime Fund. All funds collected shall be subject to audit by the Comptroller of Public Accounts and all funds expended shall be subject to audit by the State Auditor.

(h) (g) If application is made and an award granted for which no funds or insufficient funds are available, the board shall establish a waiting list of qualified claimants, with payment to be made when funds become available.

SECTION 11. This Act takes effect September 1, 1981.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

BROOKS
McKNIGHT

The substitute for the pending amendment to the bill was read.

Question - Shall the substitute for the pending amendment to the bill be adopted?

MOTION TO RECESS

Senator Snelson moved the Senate recess until 2:30 p.m. today.

Senator Howard made the substitute motion that the Senate recess until 12:35 p.m. today.

Question on the motion to recess until 12:35 p.m. today, the motion was lost by the following vote: Yeas 8, Nays 21.

Yeas: Andujar, Brown, Harris, Howard, Mengden, Sarpalius, Travis, Wilson.

Nays: Blake, Brooks, Caperton, Doggett, Glasgow, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Ogg, Parker, Richards, Santiesteban, Short, Snelson, Traeger, Truan, Vale, Williams.

Absent-excused: Farabee.

Question recurring on the motion to recess until 2:30 o'clock p.m. today, the motion prevailed by the following vote: Yeas 22, Nays 7.

Yeas: Brooks, Caperton, Doggett, Glasgow, Harris, Howard, Jones, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Travis, Truan, Vale, Williams.

Nays: Andujar, Blake, Brown, Kothmann, Leedom, Traeger, Wilson.

Absent-excused: Farabee.

RECESS

Accordingly, the Senate at 12:27 o'clock p.m. took recess until 2:30 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:30 o'clock p.m. and was called to order by the President.

RECESS

On motion of Senator Snelson the Senate at 2:37 o'clock p.m. took recess until 3:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 3:00 o'clock p.m. and was called to order by the President.

SENATE BILL 127 ON SECOND READING

The Senate resumed consideration of S.B. 127 on its second reading and passage to engrossment with a substitute by Senator Brooks for an amendment pending.

Question - Shall the substitute for the pending amendment to the bill be adopted?